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REMARKS**I. Introduction**

Claims 1 and 15 have been amended, claims 11 and 12 have been cancelled, and new claim 27 has been added. Thus, claims 1-10 and 13-27 are pending in the present application. No new matter has been added. In view of the above amendments and following remarks, it is respectfully submitted that all of the presently pending claims are allowable.

II. The Rejection Under 35 U.S.C. § 101 Should Be Withdrawn

Claims 1-10 and 13-26 stand rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. (2/1/07 Office Action, p. 2, ¶ 3). In order to overcome this rejection, Applicants have incorporated, into claim 1, the subject matter of claim 12, which was not rejected under 35 U.S.C. § 101 and thus are presumed, by Applicants, to meet what the Examiner regards as statutory subject matter. Applicants have also incorporated this statutory subject matter into claim 15 and thus submit that claim 15 ought to be regarded as encompassing statutory subject matter. Because claims 2-10, 13, and 14 depend from, and, therefore include all of the limitations of claim 1, and claims 16-25 depend from, and, therefore include all of the limitations of claim 15, it is respectfully submitted that these claims also contain statutory subject matter.

Amended claim 26 recites "*A computer-readable storage medium storing a set of instructions, the set of instructions capable of being executed by a processor, the set of instructions performing the steps of: generating a usage task from usage data; constructing a pattern graph from the usage task; constructing a model graph which represents a space of equivalents to the usage task represented by the pattern graph; and extracting sub-graphs from the model graph, wherein each of the extracted sub-graphs is isomorphic to the pattern graph.*" "[C]omputer programs embodied in a tangible medium, such as floppy diskettes, are patentable matter under 35 U.S.C. § 101 and must be examined under 35 U.S.C. § 102 and 103." (See *In re*

Beauregard, 53 F.3d 1583, (Fed. Cir. 1995)). Therefore, it is respectfully submitted that claim 26 is directed to statutory subject matter.

II. The Rejection Under 35 U.S.C. § 102(e) Should Be Withdrawn

Claims 1-10, 13, and 15-26 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,971,096 to Ankireddipally et al. ("Ankireddipally"). (2/1/07 Office Action, p. 4, ¶ 2)

Amended claim 1 recites "a method, comprising the steps of: generating a usage task from usage data; constructing a pattern graph from the usage task; constructing a model graph which represents a space of equivalents to the usage task represented by the pattern graph; extracting sub-graphs from the model graph, wherein each of the extracted sub-graphs is isomorphic to the pattern graph; creating virtual tasks from each of the extracted subgraphs; and performing a stress-test on an application program using the virtual tasks."

Applicants respectfully submit that Ankireddipally neither discloses nor suggests "generating a *usage task from usage data*" and "constructing a model graph which represents a space of equivalents to the *usage task*" as recited in claim 1. As disclosed in the specification, at least *one actual typical user interaction with an application* is needed in order to generate a usage task. (See Specification ¶ 12). Actual usage data, as opposed to hypothetical data, is the best indicator of users' "expected interactions with the application," and is therefore one of the best sources of data to be used for a stress-test. (See Specification ¶ 11).

In contrast to the claimed use of usage data (actual user interaction) to construct alternative transactions to be used to perform a stress test, Ankireddipally deals with creating a transaction structure to be used in hypothetical future transactions.

"[T]he present invention is premised on the further observation that a comprehensive e-commerce solution must provide a framework, or architecture, that allows for *definitions of complex interactions between parties to be easily configured and easily*

changed by the parties as their business needs change" (See Ankireddipally, col. 5, ll. 20-28)

Ankireddipally explicitly states that "data structure allows the user to define a transaction composed of component operations and define the order of those operations." (See Ankireddipally, col. 6, ll. 37-39). Therefore, Ankireddipally fails to disclose or suggest using usage data to generate a usage task. In Ankireddipally, the hypothetical transaction instances (Applicants' usage tasks) are generated using the transaction definition (Applicants' pattern graph) as a template; this is the exact opposite of the Applicants' process, where the usage data is used to generate a usage task and then a pattern graph. Ankireddipally includes an entire section describing the building of transactions using a user interface. (See, Id. at col. 37, lines 19-32). That is, users of the Ankireddipally system are expected to build and store transaction definitions. Accordingly, Ankireddipally's transaction definitions would be inferior in a stress test because they are not generated from actual usage data, and are instead defined by users for potential future transactions that might or might not happen.

It is therefore respectfully submitted that claim 1 is allowable. Because claims 2-10, 13, and 14 depend from, and, therefore include all of the limitations of claim 1, it is respectfully submitted that these claims are also allowable.

Amended claim 15 recites limitations substantially similar to those of claim 1, including, "a usage task generation module configured to generate a *usage task from usage data*" and "a model graph construction module configured to construct a model graph which represents a space of *equivalents to the usage task* represented by the patent graph." Thus, it is respectfully submitted that claim 15 is allowable for at least the reasons stated above with reference to claim 1. Because claims 16-25 depend from, and, therefore include all of the limitations of claim 15, it is respectfully submitted that these claims are also allowable for at least the reasons stated above with reference to claim 1.

Claim 26 recites limitations substantially similar to those of claim 1, including, “generating a *usage task from usage data*” and “constructing a model graph which represents a space of *equivalents to the usage task* represented by the patent graph.” Thus, it is respectfully submitted that claim 26 is allowable for at least the reasons stated above with reference to claim 1.

III. The Rejection Under 35 U.S.C. § 103(a) Should Be Withdrawn

Claim 14 stands rejected under 35 U.S.C. § 103(a) as unpatentable over Ankireddipally (2/1/07 Office Action, p. 8, ¶ 8). Claim 14 depends from claim 1. Dependent claims include all of the elements and limitations of their respective independent claims. For the same reasons discussed above related to claim 1 Ankireddipally is deficient. The alleged obviousness rejection in regard to the added language of claim 14 does not cure the deficiency of Ankireddipally as it relates to claim 1. Therefore, it is respectfully submitted that the rejection of claim 14 under 35 U.S.C. § 103 should be withdrawn.

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CONCLUSION

It is therefore respectfully submitted that all of the presently pending claims are allowable. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

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